

EXHIBIT AA

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ELASTICSEARCH, INC., a) Volume 1
Delaware corporation,)
ELASTICSEARCH B.V., a)
Dutch corporation,)
) Case No.
Plaintiffs,) 4:19-cv-05553-YGR
)
vs.)
)
Floragunn GMBH, a German)
corporation,)
)
Defendant.)
)

** HIGHLY CONFIDENTIAL **
** UNDER PROTECTIVE ORDER **
** ATTORNEY'S EYES ONLY **

REMOTE VIDEOTAPED DEPOSITION
OF
JOCHEN MICHAEL KRESSIN
Monday, March 1, 2021
Berlin, Germany

Reported by: B. Suzanne Hull, CSR No. 13495

Page 1

[illegible]

██████████

[illegible]

██████████

1 Q. Prior to -- withdrawn. 06:18:44

2 Did you have any conversations with Mr. Saly 06:18:46

3 regarding the substance of floragunn's business in 06:18:49

4 2020 after he took medical leave? 06:18:51

5 A. Maybe, but I couldn't -- I couldn't tell you 06:18:54

6 for sure. 06:19:03

7 [REDACTED] 06:19:04

8 [REDACTED] 06:19:10

9 [REDACTED] 06:19:14

10 A. Not that I'm aware of. 06:19:22

11 Q. Has Mr. Saly provided or identified any 06:19:24

12 materials to be used by floragunn's experts in this 06:19:29

13 litigation? 06:19:32

14 A. Again, does this refer to after he took 06:19:36

15 medical leave or in the entire -- 06:19:41

16 Q. At any time. 06:19:44

17 A. Provided material to the experts? Is that 06:19:45

18 the question? 06:19:49

19 Q. Provided material to them or identified 06:19:50

20 materials for them, yes. 06:19:53

21 MR. KWUN: Objection. 06:19:54

22 I'm going to instruct the witness not to 06:19:55

23 answer to the extent it calls for communications with 06:19:58

24 counsel. 06:20:02

25 But otherwise, you can answer. 06:20:02

1 content of a .jar file is object code written in the 07:16:16
2 JAVA programming language. 07:16:22
3 Q. You see that 167 should be available in the 07:16:24
4 Exhibit Share. 07:16:34
5 (Deposition Exhibit Number 167 07:16:35
6 was marked for identification.) 07:16:37
7 BY MR. EBERHART: 07:16:37
8 Q. It starts with -- well, it should start with 07:16:37
9 Exhibit 167 on this one. 07:16:41
10 A. 167; right? 07:16:47
11 Q. Yes. 07:16:49
12 A. Okay. I have it open. 07:16:50
13 Q. And Exhibit 167 is defendant floragunn's 07:16:51
14 response to plaintiffs' second request for 07:16:55
15 admissions; correct? 07:16:57
16 A. Correct. 07:16:58
17 Q. Have you seen this document before? 07:16:59
18 A. Yes. I have seen it before. 07:17:02
19 Q. Do you have any reason to think that 07:17:04
20 anything in this exhibit is incomplete or inaccurate? 07:17:05
21 A. No. I don't have any reason to believe 07:17:09
22 that, no. 07:17:11
23 Q. And the response to Request Number 214 on 07:17:12
24 page two reads: 07:17:18
25 "Admitted based on confirmation from 07:17:21

1 Hendrik Saly." 07:17:24

2 Correct? 07:17:25

3 A. Correct. 07:17:26

4 Q. And that was in your -- in response to 07:17:26

5 a request that floragunn admit that Hendrik Saly has 07:17:29

6 controlled the GitHub account 07:17:32

7 <https://github.com/salyh> continuously from March 4, 07:17:34

8 2013, to the present; correct? 07:17:45

9 A. Correct. 07:17:47

10 Q. And what does based on -- on confirmation 07:17:47

11 from Hendrik Saly mean? 07:17:50

12 A. That means that I asked him that question. 07:17:52

13 Q. When did you ask him that question? 07:17:55

14 A. I do not remember when that was exactly, but 07:17:59

15 it was at the time when the -- sorry. 07:18:03

16 What was the document called? RFA? Those 07:18:07

17 two particular -- those two particular questions have 07:18:12

18 been asked. 07:18:14

19 Q. Okay. So prior to the time that floragunn 07:18:15

20 submitted Exhibit 167 to Elastic, you spoke to 07:18:18

21 Mr. Saly about whether he controlled the GitHub 07:18:22

22 account referenced in Request 214; correct? 07:18:26

23 A. I asked him that question; correct. 07:18:30

24 Q. And what was his response? 07:18:33

25 A. He said -- sorry. He said that it was his 07:18:34

1 account on GitHub and they were -- there were no 07:18:38
2 other peoples in control of that account. 07:18:43
3 Q. And did Mr. -- did Mr. Saly communicate this 07:18:45
4 to you via e-mail? 07:18:50
5 A. As far as I remember -- as far as 07:18:56
6 I remember, it was probably a quick phone call. 07:19:01
7 Q. And this Exhibit 167 response is dated 07:19:04
8 January 22nd, 2020, though I believe that may be -- 07:19:14
9 does that refresh your recollection as to when you 07:19:29
10 spoke to Mr. Saly about this question? 07:19:32
11 A. No. 07:19:34
12 I can't be more specific than at the time 07:19:35
13 the questions have been asked. 07:19:38
14 Q. Exhibit 168 should be available in the 07:19:40
15 Exhibit Share for you. 07:20:21
16 (Deposition Exhibit Number 168 07:20:29
17 was marked for identification.) 07:20:31
18 THE WITNESS: 168, response to third RFAs. 07:20:31
19 Yes. I can see it. 07:20:36
20 BY MR. EBERHART: 07:20:38
21 Q. Have you ever seen Exhibit 168 before? 07:20:38
22 A. Yes, I did. 07:20:41
23 Q. Do you have any reason to think that 07:20:42
24 Exhibit 168 is incomplete or inaccurate in any way? 07:20:45
25 A. I don't have any reason to believe that, no. 07:20:49

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF KERN)
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4

5 I, B. Suzanne Hull, a Certified Shorthand
6 Reporter in the State of California, holding
7 Certificate Number 13495, do hereby certify that
8 JOCHEN MICHAEL KRESSIN, the witness named in the
9 foregoing deposition, was by me duly sworn; that said
10 deposition, was taken Monday, March 1, 2021, at the
11 time and place set forth on the first page hereof.

12 That upon the taking of the deposition, the
13 words of the witness were written down by me in
14 stenotypy and thereafter transcribed by computer
15 under my supervision; that the foregoing is a true
16 and correct transcript of the testimony given by the
17 witness.

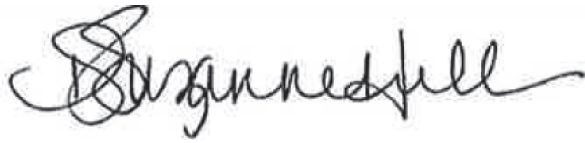
18 Pursuant to Federal Rule 30(e), transcript
19 review was requested.

20 I further certify that I am neither counsel
21 for nor in any way related to any party to said
22 action, nor in any way interested in the result or
23 outcome thereof.

24 ///

25 ///

1 Dated this 5th day of March, 2021, at
2 Bakersfield, California.

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5 B. Suzanne Hull, CSR No. 13495
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